

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**FIRST APPEAL NO.1287 OF 2016
WITH
CIVIL APPLICATION NO.3566 OF 2016
IN
FIRST APPEAL NO.1287 OF 2016**

Shantaram Maruti Jambhulkar and
Ors.

...Appellants

Versus

Bhimaji Shankar Jambhulkar and
Ors.

...Respondents

.....

Mr. Anoop V. Patil for the Appellants.

Mr. Rahul S. Kadam for the Respondents.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATED: 16th AUGUST, 2019.

P.C.:-

The Appellants herein have challenged the order dated 11th April, 2016 whereby the learned District Judge-12, Pune dismissed the application under Section 72(3) of the Maharashtra Public Trusts Act, 1950, challenging the judgment and order dated 3rd February, 2016 passed by the learned Joint Charity Commissioner in Appeal No.25 of 2015.

2. The Appellants had filed an application for registration of

Trust of 'Mhatoba Temple' in the village-Hinjewadi Taluka Mulshi District-Pune. It was the case of the Appellants that in a meeting of Gramsabha the villagers had resolved to form the Trust of Mhatoba Temple. It is stated that in view of the said resolution, the villagers held meeting on 1st December, 2014 and elected the Appellants on first board of Trustees who were authorised to register the Trust. Pursuant to the alleged resolution, the Appellants filed an application dated 2nd December, 2014 for registration of Mhatoba Deosthan Trust. The learned Assistant Charity Commissioner conducted the enquiry and by judgment and order dated 15th May, 2015 allowed registration of the Trust. The Respondents challenged the order dated 15th May, 2015 by filing an appeal under Section 70 of the Maharashtra Public Trust Act, 1950, before the District Court, Pune. The learned District Judge-12, Pune, dismissed the said application by judgment dated 11th April, 2016 and being aggrieved by the said judgment, the Appellants have filed this appeal.

3. Heard Mr. Anoop Patil for the Appellants and Mr. Rahul Kadam for the Respondents. I have perused the records.

4. The Appellants have claimed that a resolution was passed on 15th August, 2013 for registration of the public Trust. In terms of

Sub Section 4(b) of Section 18 of the Public Trust Act, 1950 such application was required to be made within a period of three months of creation of such public trust. As observed by the learned District Judge, pursuant to the resolution dated 15/8/2013 no meeting was held and no further decision was taken to act upon resolution dated 15th August, 2013. The Appellants have relied upon the resolution dated 1st December, 2013 to contend that they were appointed by the villagers as the first board of Trustees. Said resolution does not make any reference to previous resolution dated 15th August, 2013.

5. It is also to be noted that acting upon said resolution, the Appellants had filed an application dated 2nd December, 2014 for registration of the Trust. The said application does not fulfill the requirements of Section 18 of the Maharashtra Public Trust Act, 1950. Section 19 of the Act reveals that on receipt of the application under Section 18, an enquiry is required to be made in the prescribed manner for the purpose of ascertaining the issues stipulated in clauses (i) to (viii). Rules 6, 7 and 7(a) also prescribes the procedure and manner of such enquiry. The Joint Charity Commissioner as well as the District Judge has recorded a specific finding that no such enquiry has been conducted. The learned counsel for the Appellants has not been able

to satisfy the Court that these findings are perverse or are not based on material on record.

6. Considering the above facts and circumstances, in my considered view there is no reason to interfere in the order of remand. Hence, the appeal is dismissed.

7. The civil application is dismissed in view of dismissal of the appeal.

(SMT. ANUJA PRABHUDESSAI, J.)

Digitally
signed by
Megha
Parab
Date:
2019.08.26
16:26:55
+0530